IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11399 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

IQBAL @ CHINO S/O MAHAMMAD HANIF QURESHI

Versus

COMMISSIONER OF POLICE

Appearance:

1. Special Civil Application No. 11399 of 2002

MR ANIL S DAVE for Petitioner No. 1

MR KAMEN N SHUKLA for Petitioner No. 1

MS NANDINI JOSHI, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 16/05/2003

ORAL JUDGEMENT

The petitioner-detenu has challenged his detention order dated 29-10-2002 by which he is detained under Prevention of Anti Social Activities Act (for short "PASA") as a "cruel person". Along with the order of detention, he is served with the grounds of detention. In the said grounds, there is a reference about one criminal case, which is pending against the petitioner under The Prevention of Cruelty to Animals Act, 1960.

2) It is alleged that the petitioner is illegally slaughtering animals. The detaining authority after having satisfied about the activities of the petitioner has detained him as a "cruel person". On behalf of the petitioner, it is submitted that a co-detenu is already released by this Court (Coram:C.K.Buch, J.) vide his order dated 29-04-2003 in Special Civil Application No.9546 of 2002. It is submitted that the facts of the present case are identical to the said case. It is submitted by the petitioner that there is a delay of about one and a half month in passing the order of detention from the date of occurrence of incident and on that ground other co-detenu is released by this court. The detaining authority has tried to explain the delay by filing affidavit in reply but it is not satisfactory.

3) In view of the aforesaid circumstances, the order of detention is required to be set aside in view of the delay in passing the detention order and in view of the decision of this Court in Special Civil Application No.9546/2002. Therefore, the order of detention is set aside.

4) This petition is accordingly allowed. The order of detention dated 29-10-2002 is quashed and set aside. The detenu, Iqbal @ Chino S/o Mahammad Hanif Qureshi is ordered to be set at liberty forthwith, if he is not required in connection with any other case. Rule is made absolute.

(P.B.MAJMUDAR, J.)
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